

AMENDED IN ASSEMBLY MARCH 23, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1299**

---

**Introduced by Assembly Member Huffman**

February 18, 2011

---

An act to add Chapter 9 (commencing with Section 7095) to Part 1.7 of Division 6 of the Fish and Game Code, relating to marine fisheries.

LEGISLATIVE COUNSEL'S DIGEST

AB 1299, as amended, Huffman. Marine fisheries: forage species.

Existing law, enacted as part of the Marine Life Management Act of 1998, generally establishes a comprehensive plan for the management of marine life resources. Existing law requires the Department of Fish and Game to develop a fishery management master plan, and provides for the preparation and approval of fishery management plans, which form the primary basis for managing California's sport and commercial marine fisheries.

This bill would enact the Forage Species Conservation and Management Act of 2011. The act would state the policy of the state with regard to forage species, as defined. The act would require management decisions of, and regulations promulgated by, the department, including, but not limited to, new fishery management plans and amendments to existing fishery management plans *that significantly affect a forage species* to be consistent with that policy. The bill would require state representatives on the Pacific Fishery Management Council and in ~~similar roles~~ *other relevant intergovernmental processes* to advocate for policies and management consistent with that policy. The bill would require the Fish and Game Commission to restrict the development of an emerging fishery, *as*

*defined, or the expansion of an ~~existing~~ established fishery, for a as defined where forage species are a significant component of the catch, unless it makes specified findings.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 9 (commencing with Section 7095) is  
2 added to Part 1.7 of Division 6 of the Fish and Game Code, to  
3 read:

4  
5 CHAPTER 9. FORAGE SPECIES  
6

7 7095. This chapter shall be known, and may be cited, as the  
8 Forage Species Conservation and Management Act of 2011.

9 7096. The Legislature finds and declares all of the following:

10 (a) Forage species are an integral part of the California Current  
11 Large Marine Ecosystem and are of great ecological, economic,  
12 aesthetic, recreational, educational, scientific, nutritional, social,  
13 and historic importance to the people of California.

14 (b) ~~Populations~~ *Many populations* of forage species lack baseline  
15 scientific data and face a multitude of risks, including, but not  
16 limited to, ocean acidification, pollution, ~~overfishing~~, *fishing*  
17 *pressure*, global climate change, and demand for feeds in the  
18 agriculture and aquaculture industries.

19 (c) *Most forage species have great nutritional value, including*  
20 *high levels of certain long chain omega-3 polyunsaturated fatty*  
21 *acids, which have been shown to reduce the risk of cardiac events*  
22 *in adults and offer significant developmental benefits for pregnant*  
23 *and nursing women and children.*

24 (d) *The department and the Ocean Protection Council are*  
25 *encouraged to work together collaboratively to achieve the policy*  
26 *objectives of this chapter, including conservation, sustainable use,*  
27 *and ecosystem-based management of forage species, consistent*  
28 *with the duties and responsibilities of the department under this*  
29 *part, and the duties and responsibilities of the Ocean Protection*  
30 *Council under Chapter 3 (commencing with Section 35600) of*  
31 *Division 26.5 of the Public Resources Code, including, but not*  
32 *limited to, Section 35620 of the Public Resources Code.*

7097. As used in this chapter:

(a) “Ecosystem-based management” means a management approach that recognizes the ~~full~~ array of interactions within an ecosystem, including humans, rather than considering single issues, species, or ecosystem services in isolation.

(b) “Emerging fishery,” in regard to a marine fishery, means both of the following:

(1) A fishery that the director has determined is an emerging fishery, based on criteria that are approved by the commission and are related to a trend of increased landings or participants in the fishery and the degree of existing regulation of the fishery.

(2) A fishery that is not an established fishery. “Established fishery,” in regard to a marine fishery, means, prior to January 1, ~~1999~~ 2012, one or more of the following:

(A) A restricted access fishery that has been established in this code or in regulations adopted by the commission.

(B) A fishery, for which a federal fishery management plan exists, and in which the catch is limited within a designated time period.

(C) A fishery for which a population estimate and catch quota is established annually.

(D) A fishery for which regulations for the fishery are considered at least biennially by the commission.

(E) A fishery for which this code or regulations adopted by the commission prescribes at least two management measures developed for the purpose of sustaining the fishery. Management measures include minimum or maximum size limits, seasons, time, gear, area restriction, and prohibition on sale or possession of fish.

~~(e) “Existing fisheries” means fisheries that, as of January 1, 2012, are prosecuted in the state waters of California or subject to management by the department in which forage species are targeted or are a major component of the catch.~~

~~(d)~~

(c) “Forage species” means any fish or invertebrate species that contributes significantly to the diets of fish, birds, mammals, or turtles, or otherwise contributes disproportionately to ecosystem function and resilience due to its role as prey.

~~(e) “Precautionary approach” means that if an action or policy has the potential of causing harm to public resources, in the absence of scientific consensus, the burden of proof is on the proposer of~~

1 the action to show the lack of harm before an action or policy is  
2 implemented. If there is a threat of serious or irreversible damage  
3 to a forage species or an ecosystem in which the forage species  
4 plays a significant role, the lack of full scientific certainty shall  
5 not constitute a reason to postpone cost-effective measures to  
6 prevent environmental degradation.

7 (f) “Undeveloped fisheries” means potential fisheries for forage  
8 species that are not currently pursued in state waters.

9 7098. (a) It is the policy of the state to ensure the conservation,  
10 sustainable use, and, where feasible, restoration of California’s  
11 forage species populations, *including their habitats and associated*  
12 *water quality*, for the benefit of all citizens of the state. The  
13 objective of this policy shall be to achieve ecosystem-based  
14 management of marine forage species ~~through application of a~~  
15 ~~precautionary approach~~ that recognizes, prioritizes, accounts for,  
16 and incorporates the ecological services rendered by forage *species*,  
17 *including the dependence of predator species on those forage*  
18 *species*. It is the further policy of this state, regarding utilization  
19 of forage species landed in the state, to promote ~~increased human~~  
20 ~~consumption prioritized over other uses, with the goal of moving~~  
21 ~~toward higher value products.~~

22 (b) ~~(1) All management decisions of, and regulations~~  
23 ~~promulgated by, the department, including, but not limited to, new~~  
24 ~~fishery management plans and amendments to existing fishery~~  
25 ~~management plans, shall be consistent with the policy described~~  
26 ~~in subdivision (a).~~ *higher value products such as use for human*  
27 *consumption over other uses.*

28 (b) (1) *Commencing January 1, 2012, all management decisions*  
29 *of, and regulations promulgated by, the department, including,*  
30 *but not limited to, new fishery management plans and amendments*  
31 *to existing fishery management plans that significantly affect a*  
32 *forage species, shall be consistent with the policy described in*  
33 *subdivision (a). In determining consistency with subdivision (a),*  
34 *and in implementing subdivision (d) of Section 7080, the*  
35 *department shall review the best readily available scientific*  
36 *information to do all of the following:*

37 (A) *Identify the major predators, determine the relative*  
38 *contribution of the forage species to the diets of those predators,*  
39 *and evaluate the effects of management actions on those predators.*

1     (B) Identify the other forage species that serve as similar prey  
2     in the forage pool of the California Current Ecosystem and  
3     evaluate their stock status.

4     (C) Evaluate the long-term effects of alternative harvest  
5     strategies on available indicators of ecosystem structure and  
6     function.

7     (D) Consider the effectiveness of existing fishing regulations to  
8     provide adequate forage for the populations of major predators.

9     (E) Consider current population levels of major predators of  
10    those forage species.

11    (F) Consider ecological and ocean conditions, including the  
12    dynamics of decadal or long-term oceanic cycles, that affect the  
13    populations of forage species.

14    (2) State representatives on the Pacific Fishery Management  
15    Council and in ~~similar roles~~ other relevant intergovernmental  
16    processes shall advocate for policies and management consistent  
17    with the policy described in subdivision (a).

18    (3) The commission shall restrict the development of an  
19    emerging fishery, or the significant expansion of an ~~existing~~  
20    fishery, for a forage species, unless it finds both of the following:

21    ~~(A) There is robust scientific information on the population~~  
22    ~~status and ecosystem role of the forage species.~~

23    ~~(B) The established fishery, where forage species are a~~  
24    ~~significant component of the catch, unless it finds that the available~~  
25    ~~scientific information establishes that the development or~~  
26    ~~expansion of the fishery would not have a negative impact on the~~  
27    ~~significant negative impact on the population of the forage species~~  
28    or the ecological services rendered by the forage species in the  
29    larger ecosystem.